



# HOUSE OF REPRESENTATIVES

HB 2338

educational institutions; firearms; rights-of-way  
Prime Sponsor: Representative Townsend, LD 16

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**X** Committee on Judiciary

Caucus and COW

House Engrossed

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## **OVERVIEW**

HB 2338 states that the governing board of an *educational institution* may not prohibit a person from possessing or carrying a concealed weapon in a person's vehicle on a *public right-of-way*.

## **PROVISIONS**

1. Prohibits the governing board of an *educational institution* from adopting or enforcing any policy or rule that prohibits a person from lawfully possessing or carrying a concealed weapon in a person's vehicle on a *public right-of-way*.
2. Provides that a deadly weapon, dangerous instrument or explosive that is used, possessed or displayed in violation of a rule established by an *educational institution's* governing board is no longer subject to being destroyed. Allows it to be forfeited and sold or disposed of as outlined in the forfeiture of weapons statute ([A.R.S. § 13-3105](#)).
3. Defines *public right-of-way* as any highway, street, road, thoroughfare, path, alley or other right-of-way that is publicly accessible and established by a governmental entity.
4. Makes technical and conforming changes.

## **CURRENT LAW**

[A.R.S. § 13-2911](#) outlines the offense of *interference or disruption of* an educational institution as follows:

- Intentionally, knowingly or recklessly interfering with or disrupting the operations of an educational institution by:
  - Threatening to cause physical injury to an employee, student or any person on the property;
  - Threatening to cause damage;
    - Class 6 felony (up to one year presumptive sentence; fine up to \$150,000 plus surcharges).
- Intentionally or knowingly entering or remaining on the educational institution's property to interfere with use of the property;
  - Class 1 misdemeanor (up to six months in jail; fine up to \$2,500 plus surcharges).
- Intentionally or knowingly refusing to obey a lawful order to leave the property.
  - Class 1 misdemeanor.

The statute defines *interference with or disruption of* as any act that might reasonably lead to the evacuation or closure of any property of the institution or the postponement, cancellation or suspension of any class or activity. An evacuation, closure, postponement, cancellation or suspension is not required.

All public educational institutions (unless ineligible to receive state aid) are required to develop rules for the maintenance of public order and to govern the conduct of faculty, students, staff and the public while on the property. Penalties for rule violations must be clearly outlined and provide for the removal of the person from the property. Any deadly weapon, dangerous instrument or explosive that is used, displayed or possessed in violation of a rule must be forfeited and sold, destroyed or disposed of as outlined in the forfeiture statutes. Additionally, [A.R.S. § 15-341](#) requires the governing board of a K-12 school to prescribe and enforce policies and procedures to prohibit a person from carrying or possessing a weapon on school grounds, unless the person is a peace officer or has special authorization from the school administrator.

The statute defines an *educational institution* as any university, college, community college, high school or common school in the state.

[A.R.S. § 13-3102\(A\)\(12\)](#) makes it a Class 1 misdemeanor to possess a deadly weapon on school grounds. The following exceptions are provided:

- If the firearm is not loaded and it is carried in a vehicle controlled by an adult. If the adult leaves the car, the firearm must not be visible from the outside and the car must be locked;
- If the firearm is used in a school-approved program; or
- If the firearm is possessed by a retired law enforcement officer with a certificate of firearms proficiency ([LEOSA](#)).

The offense is a Class 6 felony if committed in the furtherance of specific crimes. *School* is defined as any public or nonpublic kindergarten, common or high school.

Federal law ([18 USC §§ 922\(q\)\(2\) and 922\(q\)\(3\)](#)) makes it unlawful for any person to knowingly possess or discharge a firearm that has moved in/otherwise affects interstate or foreign commerce in a school zone. Exceptions are provided for:

- Private property that is not part of the school grounds;
- Persons who are licensed by the state to possess a firearm;
- Firearms that are:
  - Not loaded and locked in either a container or firearms rack on the vehicle, by a person who is:
    - Using the firearm in a program approved by a school;
    - In accordance with a contract entered into between the school and the individual or individual's employer; or
    - A law enforcement officer acting in official capacity
  - Not loaded and possessed by a person traversing the premises to gain access to public or private lands for hunting, if authorized.